

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Michael O. DeVaughn,	)	
	)	C/A No. 2:04-1301-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>O R D E R</b>
City of Anderson, Spartanburg County	)	
and Cherokee County,	)	
	)	
Defendants.	)	
_____	)	

At the time of the filing of the complaint, Plaintiff Michael O. DeVaughn was a federal inmate housed at various state and city facilities in South Carolina. He brought this action under 42 U.S.C. § 1983, alleging denial of his constitutional rights.

On January 19, 2005, Defendants filed a motion for summary judgment. By order filed January 19, 2005, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff was granted an extension of time until April 25, 2005 to file a response, and thereafter a second extension until June 1, 2005. Plaintiff specifically was advised that the failure to respond would subject the case to dismissal for failure to prosecute. Plaintiff filed no response to Defendants' motion. Plaintiff since has been released from incarceration.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert S. Carr for a Report and Recommendation. The Magistrate Judge filed a Report and Recommendation on June 8, 2005 in which he recommended that the complaint be dismissed pursuant to Rule 41(b), FRCP for failure to prosecute. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has reviewed the record thoroughly. The court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, the case is dismissed *with prejudice* pursuant to Rule 41(b) for failure to prosecute.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

July 7, 2005.

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**